

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 11792,
12537, 12910, 12911, 12912, 13091,
13092, 13093, 18727, 18728, 19148
and 19149 of Calaveras County Water
District;

Applications 12860, 13011A, 14372,
14373, 19664, 19665 and 19666 of
Tuolumne County Water District No. 2;
and

Applications 13211, 13212, 14374,
14375 and 17408 of Oakdale and South
San Joaquin Irrigation Districts to
Appropriate from Stanislaus River and
Tributaries in Calaveras, Tuolumne, and
Alpine Counties

ADOPTED APR 29 1963

ORDER DENYING PETITION FOR
RECONSIDERATION OF AND AMENDING DECISION D 1114

A petition for reconsideration of Board's Decision
D 1114 was filed on April 15, 1963, by Tuolumne County Water
District No. 2. The grounds for such petition are as follows:

"(a) The decision does not contain a clear statement
of the Board's findings on the material issues;

"(b) The Board erred in determining that the Calaveras
project would more nearly accomplish the objectives of the
California Water Plan than the Tuolumne project;

"(c) New evidence, in the form of Bulletin 95 of Department of Water Resources, showing that the diversion of water from North Fork Stanislaus River at Spicers to Middle Fork, as proposed by the Tuolumne plan will help accomplish the objectives of the California Water Plan, has become available since the cause was submitted.

"(d) The Board erred in concluding that the Calaveras project will best conserve the public interest."

We will discuss each of the grounds in the order presented.

(a) Under the heading "No Findings on Material Issues" the petition alleges that "the Board approved the Calaveras project and rejected the Tuolumne project without disclosing the reasons therefor" (p. 2). On page 3, the petition indicates an awareness that the reason for the Board's decision was its conclusion "that the public interest is on the side of the Calaveras project" but complains that the decision is devoid of "any reference to a finding on relevant and material facts to support that conclusion."

Contrary to petitioner's assertion, the facts upon which the Board's conclusion is based are clearly set forth. After reviewing the competing plans of the three applicants and the general plan published by the State for development of the Stanislaus River, the Board found, on page 20 of the decision, that "the Calaveras plan will most nearly accomplish the objectives proposed under the California Water Plan for development of the North Fork Stanislaus River (DWR Exh. 3)."

The Board further found that "For all practical purposes the Calaveras District's project will fully develop the North Fork with over 577,000 acre-feet of storage capacity as compared to 160,000 acre-feet under the Tuolumne District's project and 60,000 acre-feet under the Tri-Dam District's project" (p. 22). This finding is supplemented by a further finding that Tuolumne's project "does not fully develop the stream system, and would for all practical purposes preclude construction of any other sizable project" (p. 23).

The evidence upon which the foregoing findings are based is summarized on pages 22 and 23 of the decision.

The petition complains that the decision does not "reveal any facts whatever about the physical, engineering, economic, or financial feasibility of the Tuolumne project, nor any statement of its estimated costs or anticipated yields in water or revenues" (p. 3). Since the Board determined that the public interest required approval of the Calaveras applications and denial of Tuolumne's applications for the reasons referred to above, no purpose would have been served by discussion of the feasibility of the Tuolumne project.

(b) Under the heading "Objectives of California Water Plan" the petition alleges that the Board erred in determining that the Calaveras plan would more "nearly accomplish the objectives proposed under the California Water Plan for development of the North Fork Stanislaus River" (p. 20).

The California Water Plan as it relates to the Stanislaus River and as outlined on pages 19 and 20 of Decision D 1114 was explained at the hearing by M. Guy Fairchild, Supervising Engineer, Department of Water Resources, and is shown on a large map designated as DWR Exh. 3. According to DWR Exh. 3, water from Spicer Meadows Reservoir would be used for hydroelectric power development and consumptive use purposes on the North Fork Stanislaus River which is in accord with the Calaveras plan. The plan of the Tuolumne District to divert water from Spicer Meadows Reservoir to the Middle Fork Stanislaus River is not part of the California Water Plan as outlined on DWR Exh. 3 and as set forth in Bulletin No. 3 "The California Water Plan," dated May 1957.

(c) Under the heading "New Evidence on California Water Plan" the petition states that Bulletin No. 95 has become available since the cause was submitted and that the report shows that a North Fork-Middle Fork diversion is consistent with and helpful to the California Water Plan.

Bulletin No. 95 entitled "Tuolumne County Water District No. 2 Investigation, Preliminary Edition", dated October 1962 was prepared pursuant to a cooperative agreement between the District and the Department of Water Resources. The resolution of the Board of Directors of the District requested the Department "to make a preliminary investigation and report on a study by said department of the feasibility of constructing the storage and diversion works contemplated by the

California Water Plan, or acceptable alternative thereto, on the Stanislaus River...." (emphasis added).

The Spicer Meadows project described in Bulletin No. 95 is similar in scope to the North Fork-Middle Fork project proposed by Tuolumne. Also Mr. Fairchild testified regarding some of the projects which are described in Bulletin No. 95. Therefore, the Board concludes that Bulletin No. 95 does not contain sufficient new evidence to cause the Board to grant a rehearing nor would it change the findings on the material issues.

The Board does not take issue with the petitioner that a "Basin Group Project" might better achieve the objectives of the California Water Plan as a means for developing water for both Calaveras and Tuolumne Counties. However, such a development would require an agreement between Tuolumne and Calaveras Districts as well as arrangements with Oakdale and South San Joaquin Irrigation Districts and Pacific Gas and Electric Company for use of their existing facilities. By letter dated January 16, 1963, the Board was advised by the Calaveras District that negotiations had resulted only in delay and unacceptable counter proposals and that negotiations between the respective applicants had terminated.

(d) The figures presented by the petition on page 11 indicate a comparison of the Calaveras plan and the "modified Collierville Project" proposed by the Tuolumne District. However, the fact remains that the applications of the Tuolumne District do not include the modified Collierville project and that they were incapable of being so amended to include such a project.

Further, the Calaveras District was opposed to any amendment of its applications to cover only the modified Collierville project. Therefore, the Board acted on the projects proposed by the applications at issue in these proceedings. It should also be noted that the works approved by Decision D 1114 are not in conflict with the "Basin Group Plan" proposed in Tuolumne Exh. 1 entitled "Report and Development Plan Stanislaus River Basin Area for Stanislaus River Basin Group."

The Board, having considered the aforementioned issues raised by the petitioner in its petition for reconsideration of Decision D 1114, and having found no error and having further found that there is no new evidence which would justify a different decision, the petition for reconsideration is hereby denied.

The Board concurs with the petitioner that a mathematical error appears in the decision with regard to the bond service for "Stage A" irrigation and domestic facilities and it is hereby ordered that the figure shown as "54,260" on page 11 of the decision be and the same is stricken and replaced by the figure "542,600"; that the total annual cost shown as "265,260" at the bottom of page 11 be and the same is stricken and replaced by the figure "753,600"; that the reference "CCWD Exh. 33" following each of the amended figures be and the same is stricken; and that the figure of estimated revenue in excess of costs shown as "674,000" on the last line of the first paragraph on page 12 be and the same is stricken and replaced by the figure "185,400."

Adopted as the order of the State Water Rights Board
at a meeting duly called and held at Sacramento, California on
the 29th day of April, 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member